

HCK8THOS

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 165 (PKC)

5 JUAN THOMPSON,

6 Defendant.

7 -----x

8 December 20, 2017
9 11:00 a.m.

10 Before:

11 HON. P. KEVIN CASTEL,

District Judge

12 APPEARANCES

13 JOON H. KIM

14 Acting United States Attorney for the
Southern District of New York

15 JACOB E. WARREN

JESSICA R. LONERGAN

16 Assistant United States Attorneys

17 FEDERAL DEFENDERS OF NEW YORK

Attorneys for Defendant

18 MARK B. GOMBINER

19 JULIAN D. HARRIS

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(Case called)

THE DEPUTY CLERK: Counsel, please state your name for the record.

MR. WARREN: Good morning, your Honor. Jacob Warren and Jessica Lonergan for the United States.

THE COURT: Good morning.

For the defendant.

MR. GOMBINER: Mark Gombiner and Jullian Harris, Federal Defenders, for Mr. Thompson. Good morning, Judge.

THE COURT: Good morning, Mr. Thompson.

Good morning, Mr. Gombiner and Ms. Harris.

The first order of business is I am going to go through the materials I have, and the question, Mr. Gombiner, will be whether I have everything I should have. It will be the same question for the government.

So I have a presentence report, recommendation and addendum, prepared by probation and revised on September 1, 2017. I have a letter from the government, dated December 13, 2017. I have ten victim impact statements submitted by the government on or about November 2, 2017. I have a memorandum submitted by federal defenders, Mr. Gombiner and Ms. Harris, dated December 8, 2017. That is what I have on the substance of sentencing.

Do I have everything I should have, Mr. Gombiner?

MR. GOMBINER: Yes, Judge.

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1 THE COURT: Same question for the government.

2 MR. WARREN: Your Honor, I believe there's one
3 additional victim impact letter, dated November 10, 2017.

4 THE COURT: All right. I believe I reviewed it
5 upstairs, but do you happen to have a copy of it?

6 MR. WARREN: Yes, your Honor.

7 THE COURT: Let me know if you need it returned. I
8 will give it back to you if it's your only copy.

9 Mr. Gombiner, have you seen this?

10 MR. GOMBINER: Let me just take a look.

11 THE COURT: Take a look.

12 Thank you.

13 All right. Has the defendant read, reviewed and
14 discussed with you the presentence report, recommendation and
15 addendum?

16 MR. GOMBINER: Yes, your Honor.

17 THE COURT: Does the defendant have any objections to
18 the facts set forth in the PSR?

19 MR. GOMBINER: To the facts, no, Judge.

20 THE COURT: Any objections to the guideline
21 calculation?

22 MR. GOMBINER: Yes, Judge.

23 THE COURT: Why don't you go through that with me.

24 MR. GOMBINER: Well, Judge, this was the one item in
25 the plea agreement that the parties agreed to disagree on,

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1 which was whether the guideline enhancement for violating a
2 court order of protection applies.

3 THE COURT: And your position is that order must be
4 served, and the government's position is that it need not be
5 served but the defendant must know of its issuance.

6 MR. GOMBINER: Judge, my position is that under New
7 York law you have to have actual notice before you can be
8 guilty of violating a court order of protection. I think the
9 law in New York is pretty clear that actual notice is not an
10 e-mail that you can construe or infer that the defendant may or
11 may not have, if there is some idea that there was some generic
12 order of protection. Actual notice under New York
13 law -- generally, people get notice of a court order of
14 protection because they are served with it. But New York
15 courts have also found that you could have notice if you are in
16 court when the order was issued, or there was one case where
17 the defendant was served in Vermont with a facsimile copy of
18 the order of protection and that wasn't service as defined
19 under New York law, but they had actual notice of it.

20 There is no case in New York, and the government
21 hasn't cited any, even remotely suggesting that the kind of
22 evidence the government is relying on, which is one e-mail in
23 which -- first, the government says it was sent by Mr.
24 Thompson. The e-mail itself is not signed by him or anything.
25 But even assuming he did send it, the kind of reference to,

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1 there is some kind of aggravated order of protection, you go
2 back to New York you would be arrested for violating it, it
3 doesn't even say order of protection in the thing, but that is
4 not what the New York courts mean by actual notice. That's not
5 even constructive notice, which is a different kind of notice
6 and a lesser form. New York courts require actual notice, and
7 there have been cases that have been dismissed on that basis
8 where there wasn't actual notice.

9 I would also point out that Mr. Thompson was in fact
10 interviewed by a New York City detective on November 22, 2016,
11 which was after --

12 THE COURT: What date?

13 MR. GOMBINER: November 22, which was after both the
14 initial order of protection and the renewed order of protection
15 had been issued, and that detective didn't tell Mr. Thompson
16 anything about there being any order of protection against him.

17 THE COURT: So what? He is investigating a crime.
18 Why would it be his job to say, And, sir, I want you to know
19 there is an order of protection against you.

20 MR. GOMBINER: Because one of the things he said was,
21 I don't want you contacting Ms. Rossi. That would seem to be
22 an appropriate circumstance under which you would say there is
23 an order of protection against you. I am not saying that's
24 dispositive, but it's further evidence that Mr. Thompson did
25 not have actual notice, as defined by New York law, of this

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1 order of protection, and therefore this enhancement should not
2 be applied.

3 THE COURT: Let me hear from the government.

4 MR. WARREN: Your Honor, I think on at least one
5 point, we are in agreement on the law in New York, which is
6 that for an order of protection actual notice is what matters,
7 and actual notice is what is required. I don't think there is
8 any dispute that if there was actual notice the underlying
9 conduct would violate the order.

10 This is the reason we carved this issue out for your
11 Honor to decide in the plea agreement. The government put its
12 best foot forward on these two pieces of evidence so as to
13 demonstrate actual notice, conceding that proper service of
14 process was not made here.

15 Those two pieces of evidence that show actual notice
16 are an e-mail from Mr. Thompson where he says in the e-mail
17 aggravated harassment. He sent other e-mails like this,
18 basically making himself out to be the victim, and he seems to
19 acknowledge in the e-mail that there is this order of
20 protection in New York state, and he also makes the comment
21 about not traveling to New York.

22 The second piece of evidence is what we just
23 discussed, the interview with the New York City Police
24 Department detective, where Mr. Thompson told the detective
25 that they had filed harassment claims against each other.

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1 Those are the two factual points that the government has to
2 demonstrate actual notice here, your Honor.

3 Again, I think on the law -- if there was actual
4 notice, I don't think that the defense and the government are
5 disputing that the order of protection would be violated.

6 THE COURT: Mr. Gombiner, would the defendant like a
7 Fatico hearing on this issue?

8 MR. GOMBINER: Judge, if it's going to affect the
9 Court's sentence -- let me just consult with my colleague.

10 THE COURT: Yes.

11 MR. GOMBINER: Judge, unless we are confident, which I
12 am not sure how we could be, that this wouldn't affect the
13 Court's sentence in any way, we would like a hearing on it.

14 THE COURT: OK.

15 Government can proceed, if you'd like. Do you want me
16 to set another date for this? What's your pleasure?

17 MR. WARREN: Your Honor, we would rest on the
18 underlying documents. In a hearing we can proceed. We
19 wouldn't call any witnesses.

20 THE COURT: Do you have the documents?

21 MR. WARREN: Yes, your Honor. They are exhibits.
22 It's Exhibit B to the government's sentencing submission.

23 THE COURT: Mr. Gombiner, you have seen Exhibit B?

24 MR. GOMBINER: Exhibit B? Just one second, Judge.

25 Yes, I have seen all of these things. I am just

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1 trying to locate them.

2 THE COURT: Take your time.

3 MR. WARREN: Just for the record, I have handed up
4 Exhibits B and C to the government's sentencing submission.

5 THE COURT: I now see Exhibit C has been handed up.

6 MR. WARREN: The underlying e-mail that I was just
7 speaking about, if I could just have a minute to find that
8 document, your Honor.

9 THE COURT: Yes.

10 MR. WARREN: I am also handing up Exhibit E to the
11 Court, which is the e-mail that I mentioned.

12 THE COURT: All right. Any objection to these three
13 exhibits, Mr. Gombiner?

14 MR. GOMBINER: No. We don't have any objection to
15 their authenticity.

16 THE COURT: So they are received.

17 (Government's Exhibits B, C & E received in evidence)

18 THE COURT: Anything further from the government?

19 MR. WARREN: Nothing further from the government on
20 this point.

21 THE COURT: Mr. Gombiner, do you have any evidence you
22 want to offer?

23 MR. GOMBINER: We don't have any evidence.

24 THE COURT: So the defense rests?

25 MR. GOMBINER: Yes, Judge.

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1 THE COURT: Let me hear from the government. Walk me
2 through what you rely on from the detective and what you rely
3 on from the e-mails.

4 MR. WARREN: Yes, your Honor. This is, of course, my
5 mistake. That's the only copy I brought of those exhibits.

6 THE COURT: I will lend them back to you, but go
7 ahead.

8 MR. WARREN: Thank you, your Honor.

9 So, your Honor, Exhibit B is the order itself, which I
10 don't think that's in dispute at all.

11 Exhibit C is the detective's report. And in the
12 detective's report there is --

13 THE COURT: Detective Rivera?

14 MR. WARREN: Yes, your Honor. And this is on page,
15 the Bates stamp is USAO 360. And this is on the third numbered
16 paragraph on that page of the detective's report of his
17 interview with Mr. Thompson: "I asked Mr. Thompson if he has
18 been in contact with the victim. He stated not since leaving
19 NY. He states they filed reports against each other for
20 harassment, but states that he does not engage in communication
21 with her."

22 That's the first point on this detective's summary of
23 that interview; the inference being that Mr. Thompson knew that
24 there was an order of harassment that had been filed.

25 THE COURT: He knew there was a proceeding.

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1 MR. WARREN: Yes, your Honor.

2 THE COURT: He knew there was a proceeding commenced,
3 maybe not the outcome based on that, but he knew there was a
4 proceeding is the most I would infer from that.

5 Go ahead.

6 MR. WARREN: Then Exhibit E, your Honor, is an e-mail,
7 and the top e-mail in this chain, this is the second
8 page -- sorry, this is the first page of Exhibit E behind the
9 actual exhibit. And the top e-mail is from Mr. Thompson. It
10 says, "The hacker or hackers tweeted at my sister who told me
11 about it. I then looked at the timeline, noticed they were
12 engaged with someone who was very familiar with me, my friend
13 below, that engaged that account, and this is what happened."

14 THE COURT: That's the end of the quote?

15 MR. WARREN: That is the end.

16 THE COURT: Let's have a clear record here. If you're
17 starting a quote, tell me when you're starting it; if you are
18 ending it, tell me when you're ending it.

19 Go ahead.

20 MR. WARREN: There is then a forwarded message. The
21 forward is from veronicareeves6@gmail.com, on September 29,
22 2016, at 7:14 p.m. And it's to thompsonotherkin@gmail, Mr.
23 Thompson's Gmail address.

24 This is a quote from the message that's forwarded:
25 "OK, Juan. You're a coward. I'm the guy who lives and loves,

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1 Juan. Obviously you get your female bullying tactics from your
2 father. Researching you has been quite a laugh."

3 THE COURT: Slow down. We have a court reporter who
4 is trying very hard to take this all down.

5 MR. WARREN: Understood.

6 "You're a character. So how about this? You never
7 contact, disparage, remark, e-mail, threaten, try to contact
8 her again, at her work, home, through friends or relatives,
9 using electronic means, phone (cell or landline), e-mail, text
10 or in person, through your friends, relatives, or other
11 persons, true or fake. If you comply, it will end here, except
12 if you show up in the State of New York, whereas a warrant has
13 been issued for your arrest for violation of an order of
14 protection (aggravated harassment by electronic means). It's
15 just another day at the office for me, Juan. This whole thing
16 lies in your hands. Your future, Juan."

17 THE COURT: And this is from?

18 MR. WARREN: This is from an e-mail account that Mr.
19 Thompson created and then sent to himself. That's the
20 September 29, 2016, at 7:14 e-mail.

21 THE COURT: So it's an e-mail from Mr. Thompson to Mr.
22 Thompson.

23 MR. WARREN: Yes, your Honor.

24 THE COURT: Hand it up, please.

25 MR. WARREN: I am handing up Exhibit E to the Court.

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1 THE COURT: I want the other exhibits back also. They
2 have been received into evidence.

3 MR. WARREN: I am also handing up Exhibit C and
4 Exhibit B.

5 THE COURT: Thank you.

6 Mr. Gombiner, anything else?

7 MR. GOMBINER: Well, Judge, first, with respect to
8 this e-mail, that's the government's theory as to who sent this
9 e-mail to whom. There is no evidence to support that other
10 than the government's statement. This isn't an e-mail from Mr.
11 Thompson. The government wants the Court to infer that he made
12 this up and created it, but there is no evidence of that. So
13 we would object to it on that basis.

14 But even if the government could prove that, the
15 statement that "whereas a warrant has been issued --"

16 THE COURT: Wait a minute. You deny that from Juan
17 Thompson at thompsonotherkin@gmail is not your client's --

18 MR. GOMBINER: No, I am not denying that. I am
19 denying the e-mail in question is from veronicareeves6@gmail.

20 THE COURT: This is the problem you have, Mr.
21 Gombiner. The government says this was an e-mail that Mr.
22 Thompson wrote and sent it to Mr. Thompson. But if we
23 generously assume that that's not true, that he didn't send it,
24 that he didn't write it, if we generously assume that, still we
25 have Mr. Thompson receiving the e-mail, which puts him on

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1 notice of the order of protection.

2 MR. GOMBINER: Judge, I would say that is well beyond
3 anything that could be reasonably taken away from this e-mail,
4 whether Mr. Thompson received it or whether he wrote it
5 himself. Because the only relevant portion of it says,
6 "Whereas a warrant has been issued for your arrest for
7 violation of an order," that is not true.

8 THE COURT: Read what it says. That's not what it
9 says.

10 MR. GOMBINER: "Whereas a warrant has been issued --"

11 THE COURT: Excuse me a second, Mr. Gombiner. Don't
12 interrupt me. That's not what it says. Please read what it
13 says.

14 MR. GOMBINER: "Except if you show up" -- I am reading
15 the relevant portion of it. I can read the whole thing.

16 THE COURT: What you specifically did in terms of the
17 relevant portion, you omitted the words "of protection." That
18 strikes me as rather relevant.

19 MR. GOMBINER: Judge, OK. Let me just read it over
20 again.

21 The relevant portion reads: "Except if you show up in
22 the State of New York, whereas a warrant has been issued for
23 your arrest for violation of an order of protection (aggravated
24 harassment by electronic means)."

25 I can keep reading. "It's just another day at the

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1 office for me, Juan. This whole things lies in your hands.
2 Your future, Juan."

3 So the points I was trying to make is, one, there was
4 no warrant that had been issued for his arrest. In fact, the
5 New York City detective who came two months later didn't have a
6 warrant for Mr. Thompson's arrest. So that is simply not
7 accurate.

8 "An order of protection (aggravated harassment by
9 electronic means)," that does not show knowledge of the
10 specific order of protection that was issued. The order of
11 protection issued against Mr. Thompson was not simply an order
12 of protection about aggravated -- I am not even sure what that
13 means, "aggravated harassment by electronic means," but this
14 does not suffice to show that Mr. Thompson had actual notice
15 that an order of protection had been given.

16 There is no case in New York law, I am 100 percent
17 confident, that anything remotely close to this has ever been
18 held to constitute actual notice. The idea that maybe somebody
19 had obtained some kind of an order is not enough to prove --
20 even if you could infer that from this, and I would suggest
21 that you can't, but even if you could, that wouldn't be enough
22 to prove you had actual notice of the specific order at issue.
23 There is no crime in New York for just violating an order of
24 protection in general; you have to violate a specific order of
25 protection.

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1 THE COURT: But the guideline does not require that
2 there be a finding by any court in the State of New York that
3 you violated an order of protection.

4 MR. GOMBINER: The guideline does require it. The
5 guideline requires that you have violated an order of
6 protection.

7 THE COURT: Listen to what I said. The guideline does
8 not require that any New York court have found that you
9 violated an order of protection. You disagree with that
10 statement?

11 MR. GOMBINER: I certainly don't disagree with it, in
12 that the guideline doesn't have New York in it. But the
13 guideline does say that it applies to someone who has violated
14 an order of protection.

15 THE COURT: Correct.

16 MR. GOMBINER: The only order of protection we have
17 here is a New York court order of protection. So to have
18 violated a New York court order of protection, you would have
19 had to do something that constituted a violation of a New York
20 order of protection. And in New York you haven't violated an
21 order of protection unless you have first received actual
22 notice of it. So that is why it is important what New York
23 courts have construed actual notice to be.

24 THE COURT: Where is your case law? The government
25 has come forward and has cited *McCormick v. Axelrod* and *People*

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1 v. *Jakubowski*. Where is the case law that you have to have the
2 actual order? Do you have any such case?

3 MR. GOMBINER: I do have some cases. The cases that
4 we cited -- *McCormick*, *Tumminello*, *People v. Carthew* -- they
5 are in our letter. But in other cases, those are cases where,
6 when there was actual notice, actual notice was either being in
7 the court when the order was issued or having received a
8 facsimile copy in another state, or maybe your lawyer was given
9 a copy of the order. It's something where you could find that
10 the defendant actually knew what the specific order against him
11 was. There is no case, for example, where a neighbor said,
12 Hey, Joe, I heard that your wife got an order of protection
13 against you, and a court found that something like that was
14 actual notice.

15 That's basically what the government has got here.
16 That is just not enough. New York courts, whether for good or
17 for bad, take the concept of actual notice seriously. They
18 don't mean it's just any rumor that there is an order of
19 protection out there. They mean there is something specific
20 where the court can find that the defendant knew about the
21 particular order of protection that a particular court had
22 issued against him or her. And this doesn't suffice. So we
23 don't think that this is good enough to constitute actual
24 notice.

25 THE COURT: Thank you.

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1 I find by a preponderance of the evidence that Juan
2 Thompson knew of the existence of an order of protection issued
3 by a New York court and thereafter violated the order of
4 protection; and, accordingly, the enhancement under 2A6.1(b)(3)
5 is appropriate.

6 I begin with the telephone interview of Mr. Thompson
7 on November 3, 2016 by a New York City police detective by the
8 name of Rivera, part of the special investigations division, in
9 which he asked if Mr. Thompson had been in contact with the
10 victim and he stated, "Not since leaving New York. He states
11 that they filed reports against each other for harassment, but
12 states he does not engage in communication with her." This
13 reflects knowledge on his part of judicial proceedings in New
14 York; that's a reasonable inference to be drawn from the
15 exhibit. It does not, however, reference an order of
16 protection.

17 There is, in addition to that, the September 29, 2016
18 e-mail from Veronica Reeves to Juan Thompson. While the
19 government contends that Mr. Thompson was the author and the
20 recipient of the e-mail of September 29, 2016, there is no
21 serious dispute that he at least received the e-mail.

22 The government's theory of the case is that this was
23 an attempt again to build a false record, but, nevertheless, it
24 was received by Mr. Thompson and it says, "Except if you show
25 up in the State of New York." It says -- I will back it up.

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1 It says, in essence, that "you never contact, disparage,
2 remark, e-mail, threaten, try to contact her again, at her
3 work, home, through friends or relatives, using electronic
4 means, phone (cell or landline), e-mail, text or in person,
5 through your friends, relatives or other persons to her face.
6 If you comply, it will end here." This is the relevant
7 language that proceeds after that: "Except if you show up in
8 the State of New York, whereas a warrant has been issued for
9 your arrest for violation of an order of protection (aggravated
10 harassment by electronic means)." And then it says, "It's just
11 another day at the office for me, Juan. The whole thing lies
12 in your hands. Your future, Juan."

13 I find by a preponderance of the evidence that Mr.
14 Thompson was on notice of the issuance of an order of
15 protection by the New York courts at least as of September 29,
16 2016. And to the extent he didn't know the words of the order,
17 that would simply be because of conscious avoidance, which is
18 the equivalence of knowledge. When one consciously avoids
19 learning facts, the consequence of said avoidance is the same
20 as if one has actual notice knowledge.

21 So that's my finding. I find the enhancement is
22 appropriate.

23 Any other objections to the guideline calculation, Mr.
24 Gombiner?

25 MR. GOMBINER: No, Judge. Just to complete any

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1 record --

2 THE COURT: Wait a minute. I gave you a full and fair
3 opportunity to say anything else you have to say. If you want
4 to disagree with my ruling, there is place you can go for the
5 disagreement. I asked you if you had any other evidence, you
6 wanted to make any other argument. If your purpose now is to
7 make a comment on my ruling, the time has come and passed for
8 that.

9 MR. GOMBINER: The only comment I was going to make
10 was --

11 THE COURT: Is it about the ruling?

12 MR. GOMBINER: -- addressed to an issue that the
13 government did not raise. Nobody had suggested before the idea
14 of conscious avoidance is a way you can violate an order of
15 protection.

16 THE COURT: Well, that's great. Why don't you take
17 that up on appeal. That's an alternate finding I made. It's
18 clear you disagree with the finding. I don't ask you to agree
19 with it, but we have now been on this issue for quite some time
20 and we have other business to attend to.

21 MR. GOMBINER: Thank you, Judge.

22 THE COURT: Do you have any other objections to the
23 guideline calculation in this case?

24 MR. GOMBINER: No, we don't.

25 THE COURT: Does the government have any objections to

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1 the guideline calculation in this case?

2 MR. WARREN: No, your Honor.

3 THE COURT: I find that the guidelines are correctly
4 calculated and the defendant is at total offense level 21,
5 Criminal History Category I, and the proper guideline range of
6 imprisonment is 37 to 46 months' imprisonment.

7 I will now give Mr. Gombiner an opportunity to speak
8 on behalf of the defendant.

9 MR. GOMBINER: Thank you, Judge.

10 The major point I would like to make here is that Mr.
11 Thompson is extremely remorseful for what he did here. What he
12 did here was horrible, and he knows it. He knows what he did
13 caused extreme pain, not only to Ms. Rossi, most of all to her,
14 but also to her coworkers, to her family, and to the people who
15 ran the Jewish community centers. There is no excuse for his
16 conduct. He accepts responsibility for it. He pled guilty to
17 it and he knows that he has to be punished for it. So I just
18 want to make that absolutely clear at the outset. Nobody is
19 trying to justify what he did or say that there was anything
20 good about it. It obviously had a very bad, not surprisingly,
21 bad impact on the people who were the victims of his conduct.
22 We accept that.

23 The Court has found that the guideline range is 37 to
24 46 months. The government in its sentencing letter says a
25 sentence within that guideline range would constitute a just

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1 punishment. We thought a lower guideline range should apply,
2 but in our sentencing letter we also asked for a sentence
3 within the guideline range, although at the low end of it.

4 So, really, the question for the Court is not, does
5 Juan Thompson deserve to be punished, because obviously he
6 does. The question is, what degree of punishment is warranted?
7 And there are two principal factors I would ask the Court to
8 look at in determining what an appropriate sentence is. The
9 first is what led Juan Thompson to commit this conduct. Maybe
10 there are three things. First, why did he do this? Who is
11 Juan Thompson? And going forward, what is his future going to
12 be?

13 Why did he do this? I think it was a combination of
14 mental illness and alcohol abuse, and maybe, with an overlay of
15 just generally dealing with the trauma and the very difficult
16 upbringing he came from, trying to resolve that with how far he
17 had gotten from that point, and obviously something happened
18 here that he couldn't -- not that he couldn't resolve it, but
19 that led him to do what he did.

20 Mr. Thompson had a very difficult childhood, and from
21 a very early age has had some problems with mental illness. At
22 the age of 14, he was being prescribed medication. He was
23 having panic attacks. He sought mental health treatment while
24 in college and after college. So he has definitely had some
25 history of mental illness. We submitted a psychological

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1 report, I forget the doctor's name.

2 THE COURT: Yes, I have read it. Dr. Rodriguez, is
3 it?

4 MR. GOMBINER: Fernandez.

5 THE COURT: Thank you.

6 MR. GOMBINER: Who does find that -- he did find that
7 Mr. Thompson does have a history of mental illness. He doesn't
8 think that Mr. Thompson is, like, critically mentally ill,
9 but -- obviously, he is not schizophrenic or anything like
10 that. So there are degrees of mental illness, obviously, but
11 that he does have some serious mental health problems.

12 The other, I think, precipitating factor for this, and
13 probably the more direct factor, is the very serious issue of
14 alcohol abuse, which, unfortunately, Mr. Thompson didn't really
15 recognize in himself, because I think he saw alcohol as kind of
16 a way of getting in touch with his emotions, but he was
17 drinking very excessively during the time this conduct was
18 going on, and I think that certainly contributed to the kind of
19 things he was doing.

20 I think Dr. Fernandez found that that combination
21 leads to impulsive -- impulsive not in the sense -- obviously,
22 these things took a certain degree of thought and planning in
23 one sense, but impulsive in the sense that he wasn't really
24 fully in control of thinking, like, what does this mean to be
25 doing this kind of stuff? So I think that contributed to it.

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1 Now, there is no question that Mr. Thompson is a very
2 unusual individual. There aren't too many people who grow up
3 in the slums of St. Louis who end up getting admitted to Vassar
4 College. But not just getting admitted. We submitted a number
5 of letters from his professors there, and it's clear that Mr.
6 Thompson was an excellent and admired student. He did many
7 things. He was a good student. He was a leader. He
8 contributed to the community. The kind of letters we
9 submitted, these weren't just stock letters, these were letters
10 that detailed many of his accomplishments, and that is a
11 somewhat remarkable thing.

12 So Mr. Thompson definitely has some strengths; not
13 just strengths but -- unique would not be the right word,
14 because that would be one of a kind, and I am not suggesting
15 Mr. Thompson is one of a kind, but he certainly is in a very
16 small percentage of people who are able to come from a
17 background of poverty and abuse and neglect and succeed at a
18 very elite, privileged institution like Vassar College. So I
19 think that is something that is worthy of the Court's
20 consideration.

21 I also think it's worthy of the Court's consideration
22 at a completely different level. Since he has been in prison,
23 Mr. Thompson has been working at the food service unit at the
24 Metropolitan Detention Center, and he is getting very good
25 reviews there. He has been a hard worker. The people who are

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1 supervising like him. So he is clearly able to shift gears and
2 do well in that kind of an environment as well. So he does
3 have some definite strengths.

4 So I think those are factors the Court should take
5 into consideration. Probably the ultimate issue I think here
6 is, well, what is going to happen in the future? Because,
7 obviously, the Court would and probably should have concerns
8 over, well, is Mr. Thompson going to be doing something like
9 this again? Does he pose a danger to the community once he
10 gets out? And I don't want to say there is no risk, because
11 that would be disingenuous, but what I think could work here
12 and will work here is -- I think definitely a degree of
13 punishment is warranted. I am not putting that aside. This
14 isn't just about Mr. Thompson because there are victims here as
15 well.

16 So I think a guideline sentence probably is warranted
17 here, but I think it needs to be followed by -- once he gets
18 out, there definitely needs to be conditions of supervised
19 release that require intensive both mental health treatment and
20 substance abuse treatment. And that's what Dr. Fernandez
21 recommended. He thought that would go a long way towards
22 mitigating any future risk.

23 This is a case, I think Mr. Thompson is the kind of
24 person that, if he is able to deal with those issues, he really
25 can be a successful person in the world. He definitely has the

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1 capacity to do things that very few defendants who appear
2 before the Court have those kinds of abilities. We just don't
3 see that very often, and putting aside state court, you don't
4 see it very often in federal court either, even with people who
5 maybe have had a lot more opportunities earlier on in life.

6 Mr. Thompson has managed to achieve a great deal. He
7 has also done harm here, and I understand that's why we are
8 here. This is not trying to get him a reward or anything. But
9 I do want to make clear that he is somebody who can, going
10 forward, do something really positive with his life. All he
11 can say now about what happened is that he is tremendously
12 ashamed and remorseful for what he did. I mean, he knows the
13 harm and pain it caused people and he is in jail right now,
14 sitting here chained at his ankles. This has already been a
15 hard situation for him, and it's going to continue to be hard
16 for a while, but I think it sends -- the Court now has found
17 that the guideline range is 37 to 46 months, so accepting -- we
18 have objected so I will move on from that, but accepting that
19 as the range, we think a sentence at the low end of the
20 guideline range would be an appropriate balance of all the
21 factors under Section 3553(a), and we would ask the Court to
22 impose such a sentence.

23 THE COURT: Thank you, Mr. Gombiner.

24 MR. GOMBINER: Can we approach the sidebar just for
25 one minute with the government?

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1 SPECTATOR: May I object?

2 THE COURT: You may object. Let me find out what it
3 is and then I will decide the appropriate way to go.

4 (Continued on next page)

5 (Pages 27-30 sealed by order of the court)

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1 (In open court)

2 THE COURT: Ladies and gentlemen, the sidebar, which I
3 think about 50 percent of it related to what I would now say
4 and the other 50 percent is what information I got, related to
5 an ongoing investigation and Mr. Thompson's role in possibly
6 being able to assist or having assisted in some aspect of that.
7 And the nature of that circumstance is far removed from the
8 conduct in issue in this case factually, and I need not say
9 anything further, and I have ordered that portion of the
10 transcript sealed.

11 Mr. Thompson, this is your opportunity to speak, to
12 address the Court directly, to bring to my attention any facts
13 or circumstances that you believe I should take account of in
14 passing sentence upon you today. If there is anything you wish
15 to say, this is the time to say it.

16 THE DEFENDANT: May I stand?

17 THE COURT: You may stand.

18 THE DEFENDANT: I just wish to say that I wish my
19 family were here. Also, part of me doesn't wish that they were
20 here. I came from working-class people and the holidays are
21 around the corner and my 17-year-old sister is starting
22 college. I wouldn't dare ask that any of them, given all I
23 have asked of them so far. Even though they are not here in
24 the physical realm, I know they are here in the spiritual and
25 send their love, and for that I am grateful.

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1 I also wish to apologize to Ms. Rossi. I know the
2 pain and the embarrassment that she suffered is the result of
3 my decisions, the actions that I have made.

4 Being incarcerated in this entire experience has
5 taught me there are some unpleasant truths about myself that I
6 haven't come to grips with yet, and that I have to an extent
7 now that I have been incarcerated. And given the scope of
8 things and what is happening around the country, I know there
9 are still strands of misogyny and bigotry within me that I am
10 committed to battling and to licking once and for all.

11 I also wish to apologize to the Jewish community
12 centers for the suffering that they have experienced. To know
13 that people who I admired and respected for their resilience
14 have been hurt by my own decisions and choices has been
15 heartbreaking on multiple fronts. There are wounds that are
16 there that will probably never heal. Not only did I not heal
17 those wounds or help them, I added salt to those wounds and
18 made it worse. Ultimately, to all those who were harmed by my
19 choices, by the things that I did, I offer my heartfelt
20 apologies. I do not seek absolution, but I do seek
21 forgiveness.

22 The only promise that I can make to this Court is that
23 such a hideous thing on my part will never happen again. I do
24 realize that it's important to take care of one's mental
25 health. I do realize how important knowledge and consciousness

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1 is and you have to take everything that happens as a slight or
2 micro-aggression or anything along those lines. If I am truly
3 committed to the idea of a more humane society, then it starts
4 with me, and I screwed up royally in this instance and I
5 apologize deeply.

6 THE COURT: Thank you, Mr. Thompson.

7 This is the government's opportunity to speak.

8 MR. WARREN: First, I would just like to note that Ms.
9 Rossi is here, and she has a lot of friends and family here to
10 support her. She would like to address the Court, and I know
11 we have been going on for a long time, but I think she has
12 about ten minutes worth of prepared remarks that she would like
13 to address to the Court.

14 The conduct here is just devastating. If you read the
15 victim impact statements, it's awful, it's horrific. What she
16 went through is terrible. She is an incredibly strong person
17 to have endured it; not only everything that happened was bad,
18 to have the tables turned against her so that she was the one
19 being investigated by law enforcement through these false
20 claims. It wasn't just her, it was her friends, her family
21 members, her employer, who suffered through this.

22 The victim impact letters, the ones from her parents,
23 there is no worse feeling than seeing your child suffer and
24 knowing there is nothing you can do about it. Someone
25 described it as, watching Ms. Rossi go through it and going

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1 through it themselves is a living nightmare. As Ms. Rossi said
2 in her letter to the Court, she lost a year of her life over
3 this. And it wasn't just Ms. Rossi and her friends and her
4 family members and her employer, it was her entire community
5 also, the victim organizations.

6 While there is no evidence in the record that Mr.
7 Thompson ever planned on or took any steps to carry out these
8 threats, they all have to act, when they receive a bomb threat
9 like this, as if it would be carried out. So dogs have to be
10 called in, first-responder resources have to be diverted there.
11 And as pointed out in the government's sentencing submission,
12 those organizations effectively shut down for a period of time
13 until the threat is neutralized. And when these threats were
14 made, there was, of course, this atmosphere of fear, these
15 threats all across the country, and the defendant's conduct
16 here perpetuated that.

17 So for those reasons, the reasons in the victim impact
18 letters, the reasons in the government's sentencing submission,
19 we do think a guideline sentence of incarceration is
20 appropriate here, and we also recommend a period of supervised
21 release and special conditions that the probation department
22 recommended.

23 THE COURT: Thank you.

24 Ms. Rossi, you may come forward, if you'd like, and if
25 it would be convenient, you may stand at the podium.

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1 State your full name.

2 MS. ROSSI: Francesca Rossi.

3 THE COURT: That's R-O-S-S-I?

4 MS. ROSSI: Yes.

5 THE COURT: Please proceed.

6 MS. ROSSI: Thank you, your Honor.

7 I stand in front of you today grateful to be alive.

8 Men like Juan Thompson usually end up murdering their victims.

9 He stalked, harassed and threatened me with such insidious

10 methods, I feared for my life every day. Despite being present

11 today at sentencing, I am still not convinced that he won't try

12 to kill me.

13 We are here today because Juan Thompson threatened 12

14 Jewish community centers, in my name, as a part of his abusive

15 tactics aimed at destroying my life. We are here because

16 domestic terrorism is rooted in violence against women.

17 Now think to yourself, how many times during the day

18 does your phone vibrate, with an alert about an e-mail, a text,

19 a post, a status update, a phone call? Imagine each time you

20 receive these alerts your mind goes blank, your body becomes

21 paralyzed in fear and you can't breathe, because each of these

22 alerts is caused by a person threatening to harm you and

23 everyone that you know.

24 When I met Juan Thompson, I thought I had met the

25 perfect man. He was charming, intelligent, handsome -- he was

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1 a passionate journalist who said he could change the world
2 through his words. He said all the right things. We fell in
3 love over dinners and deep conversations about social justice.

4 After a year together, things started to fall apart
5 and the real Juan emerged. He was accused of plagiarism and
6 falsifying sources by his employer and was immediately fired.
7 His public persona and career were ruined in an instant. I
8 assumed the role of supportive partner and stood by his side,
9 believing his cover story and dismissing the accusations of
10 fraud. He had an excuse for everything, and I believed him.

11 Still, a seed of doubt began to grow in my mind.
12 Although the media coverage of my story has reported that
13 Juan's abuse began when I ended our partnership, the reality is
14 that Juan was actively abusing me while we were in a
15 relationship and living together. His pattern of impersonating
16 sources and defrauding people wasn't limited to his work. He
17 spent the entirety of our relationship using those same tactics
18 to isolate, shame and abuse me.

19 Juan's campaign was methodical and extensive. While
20 we were living together, I spent months believing that
21 ex-boyfriends were stalking and threatening me. I received an
22 onslaught of e-mails, phone calls and texts with horrible false
23 accusations about me. A nude picture of me was found on
24 Facebook, posted by an impersonated ex-boyfriend's profile
25 picture. I received a lawsuit, supposedly filed by an ex's

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1 wife, falsely alleging that I had spread an STI to her husband
2 and therefore to her. I didn't know --

3 THE COURT: STI?

4 MS. ROSSI: Sexually transmitted infection.

5 I didn't know it was fake until we found that the
6 lawyer who had purportedly filed it had been impersonated.
7 During this time, I sought support from Juan, unaware that he
8 was directing and inflicting the emotional turmoil I was
9 experiencing. He constantly compared himself to these men and
10 harped on their supposed transgressions. I started to feel
11 paranoid, not understanding why so many of my exes were
12 stalking me and trying to hurt me.

13 When I retained a lawyer to pursue a case against the
14 ex-boyfriend, who had supposedly posted revenge porn, she asked
15 me a sobering question: Are you certain this wasn't actually
16 done by your current boyfriend? I was shocked at the
17 possibility, and to learn that New York State does not have a
18 revenge porn law. You'd be surprised, she explained, the
19 majority of people who experience this type of manipulation are
20 actually being stalked by their current partner.

21 She was right. The man I trusted and shared my home
22 with was actively trying to destroy me. It's hard to explain
23 how I felt when I realized that all of the harassment I had
24 endured was actually perpetrated by the man that I was in love
25 with. My prior months of torment flashed before me as I

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1 realized that Juan was behind all of it, receiving vicarious
2 pleasure through my psychological pain.

3 THE COURT: Approximately when did you come to that
4 realization?

5 MS. ROSSI: In July of 2016.

6 THE COURT: Thank you.

7 MS. ROSSI: I felt like my insides were being ripped
8 apart as my mind shut down from its attempts to process the
9 horrific reality.

10 I had no idea this was the beginning of the nightmare.
11 The shock never really wore off, but the terror set in. And I
12 have lived in fear for my life every day since.

13 I ended my relationship with Juan as soon as my lawyer
14 confirmed he had authored the fake lawsuit. He refused to
15 believe it was over and would not leave my apartment. I wanted
16 him out of my life and I believed that breaking up would end
17 this torment. Juan only escalated.

18 Every day for the next nine months, the life I had
19 loved and had worked so hard to build became unrecognizable.
20 My joy and my passion was taken from me. I felt no emotion
21 other than fear and dread about what would happen next.

22 Juan went after me where he thought he would hurt me
23 the most. I have dedicated 15 years of my life to my career as
24 a social worker. I work with vulnerable clients and they trust
25 me with their lives. I am passionate about the work I do with

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1 and for them. Juan knew this. When he lost direct access to
2 me, he began to attack me in my professional world.

3 The day after I broke up with Juan, he tried to get me
4 fired. He repeatedly contacted my agency's senior management
5 team while posing as multiple journalists and claimed to be
6 investigating me for various professional and ethical
7 infractions. He said I had been pulled over for drunk driving;
8 he said I was being investigated for spreading an STI to
9 numerous partners; he said I bought drugs from my clients --
10 all of which I could have been fired for, none of which were
11 true. Because I had already informed my employer of the
12 situation, they were on alert for suspicious e-mails and phones
13 calls. They refused to engage with Juan's fake personas, which
14 only further antagonized him.

15 He began harassing my supervisors, our board of
16 directors, my coworkers and employees for the next nine months.
17 Through the personas he invented, he attempted to extort tens
18 of thousands of dollars from the agency. He sent pictures of
19 guns to human resources alleging that they were mine, and that
20 I was the one threatening him. He accused me of being
21 anti-Semitic and racist. He sent faxes, e-mails, postings,
22 made-up articles, and phone calls in attempts to get me to lose
23 my job. And it didn't stop there. Juan made similar
24 accusations to the professional social work board I am licensed
25 under. It resulted in an investigation which could have

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1 jeopardized my entire career.

2 On top of managing the intensity of my workload, I had
3 to learn how to cope with receiving threatening e-mails in my
4 work inbox all day, every day. In between stabilizing my
5 clients' emotional crises, I struggled to keep from drowning
6 myself, as I received e-mails from Juan with pictures of me,
7 allegedly linked to sex tapes he threatened to expose, which
8 made me fear he had secretly recorded me. While sitting at my
9 desk, I would receive e-mails with subject lines, such as "this
10 bullet's for you slut," or, "your life will be destroyed." He
11 sent me my family's home addresses and told me they were next.
12 When my boss would call me, I didn't know if it was work
13 related or because they were calling me about another threat
14 against me from Juan.

15 Every day I go to work knowing that my bosses and my
16 coworkers know personal and private things about my life, and
17 have seen images that I didn't invite them into. This
18 humiliation cannot be undone.

19 What I was experiencing was intimate partner violence,
20 at work and in my personal life. It is petrifying because the
21 person you love becomes the person you fear. I had no respite
22 from his torment. Every single day Juan texted, called and
23 e-mailed me relentlessly. Sometimes he would pose as a friend
24 or a family member of his, like his mom or an imaginary best
25 friend, claiming Juan loved me and Juan never meant me harm.

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1 Sometimes he would pose as a person trying to extort me and
2 demand payment or else naked pictures and videos of me would be
3 posted all over the Internet. Sometimes he would pose as
4 strangers, threatening to end my life. And sometimes he would
5 call as himself claiming he had been framed. And when I didn't
6 respond, his cycle would start again -- apology, extortion,
7 threat, denial.

8 I could not think about anything else. I felt like a
9 shell of a person, watching myself shrink deeper into the
10 psychological torture I was experiencing.

11 When he didn't get a response from me, he took to any
12 media outlet he could get to listen and defame me publicly. He
13 even went as far as faking his own near death. He e-mailed
14 news outlets inflammatory fake stories about me. He made
15 Tumblr pages about me and any man I had dated, complete with
16 pictures and references to STIs. He filmed videos on YouTube
17 about me, and then posted videos of himself commenting on the
18 grotesque stories he had developed. He did these things as
19 himself, as fake personas he invented, complete with pictures
20 and profiles, and as people he impersonated. Technology gave
21 him an omnipresence over my life. Beyond phone calls, e-mails
22 and texts, he used every digital platform imaginable to harass
23 me -- Twitter, Facebook, Instagram, OkCupid, Tumblr, YouTube,
24 Venmo, and Google. Every time my phone buzzed, I panicked.

25 When I thought it couldn't get worse, he doxed me on

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1 8chan, a Web site known for hosting child pornography and where
2 men promote violence against women, including rape and murder.
3 He posted my picture, home and work addresses and phone
4 numbers, urging the Web site users to target me. He
5 crowd-sourced his attacks on me. I felt like the walls were
6 closing in. Everywhere I turned, Juan was there, waiting to
7 destroy my life, my career, my relationships, and probably kill
8 me.

9 While coping with the fear and trauma that I was
10 personally dealing with on a daily basis, I received calls,
11 texts and e-mails from my family and friends who Juan had also
12 targeted with his methods. I was left to worry about how I
13 could manage going to work every day, while also dealing with
14 the reality of my life. Also, while managing the fact that
15 Juan's terror was spreading to so many people around me, and at
16 times their workplaces and their extended families. That I
17 know of, Juan went after at least 47 people in my life.
18 Sometimes it was someone as close to me as my 92-year-old
19 grandmother, calling me afraid for her safety and mine. Or my
20 mother, receiving e-mails of a photo of my face, with a gun
21 sight target superimposed in it demanding payment. People
22 distantly linked to me were receiving e-mails about me from
23 Juan or someone that Juan was impersonating. He stalked other
24 people as me, and to this day I will never know how many people
25 he did that with. Each time I learned Juan had abused someone

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1 else, I was triggered and reminded of my own trauma and was
2 worried about their safety as well as my own. Based on the
3 escalation of e-mail threats I had been receiving, I was
4 constantly fearful that my family, my friends, my employer, and
5 my clients were in as much danger as I was.

6 He tried to take away from everything and everyone
7 that was important to me. Separation and isolation are central
8 aspects of intimate partner violence and acted as the
9 foundation for Juan's campaign. Most people didn't understand
10 what I was going through and distanced themselves from me;
11 others were becoming victims and getting fatigued by the
12 vicarious, secondary and direct trauma themselves. Sympathetic
13 loved ones would continually ask me, Why hasn't he been
14 arrested yet?, not understanding that these obvious crimes were
15 not being legally distinguished as domestic violence. Everyone
16 watched as Juan's abuse escalated and my life grew more
17 terrifying.

18 The reality is that I asked for help from law
19 enforcement over 20 times. I asked for restraining orders to
20 stop him. I was told by the police, verbatim, "It will get
21 worse and then we can try to help." Because he was using the
22 Internet as his method of violence, the police did not
23 recognize the severity of harm. They couldn't or wouldn't do
24 the investigative work because Juan was masking his identity
25 through anonymizing e-mail accounts, VPNS, and the TOR browser,

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1 making his threats, in their minds, untraceable. I watched him
2 escalate every day. Yet the police were very responsive to
3 Juan, believing his false accusations when they came to
4 investigate me, and not him.

5 Five months before Juan's arrest, he sent a threat to
6 a Brooklyn police station, stating I was planning to quote
7 "shoot up" the precinct. The NYPD intelligence division
8 tracked me down in the middle of my workday to assess the
9 validity of such a threat. They left assured that I was not
10 the one who had made the threat, but they could not verify and
11 locate the person who had, despite me telling them that it was
12 undoubtedly Juan Thompson. Two weeks later he e-mailed a news
13 station with a death threat against me and the chief of police.
14 This truly solidified my fear that Juan was trying to kill me.
15 Soon after, the NYPD firearms division showed up at my
16 apartment to investigate me for selling guns. If the police
17 had believed that I was planning a violent attack on a New York
18 City police station with my arsenal of alleged guns, I could
19 have been seriously harmed, or worse. I know that was Juan's
20 goal. He was now using them as a weapon against me.

21 Each time I came into contact with the police, I was
22 fearful of what would happen, due to Juan's continued
23 escalation of violence framing me to law enforcement agencies.
24 I felt paralyzed, hopeless and powerless, every moment of my
25 life. Even so, I had no other recourse and I continued to ask

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1 them for help; each time I told the officers that I knew my
2 abuser's name and I believed it was going to get worse. When
3 the FBI showed up at my apartment because Juan had used my name
4 to threaten a Jewish community center in San Diego, I was
5 petrified and enraged. I handed the FBI a 31-page timeline
6 chronicling each threat Juan had made against me and all the
7 people in my life. The FBI said to me, he's escalating. I had
8 been experiencing this level of abuse for nine months. Four
9 days later, Juan was arrested for making eight threats against
10 Jewish community centers, while pretending to be me. I have
11 learned from the media that it was actually 12 centers.

12 Juan devoted over an entire year to destroying my
13 life. He painted me as an anti-Semite, a racist, a drunk, a
14 slut, a drug dealer, a child pornographer, and a gun runner.
15 He did everything he could to instill terror in my life.
16 Computers, phones, and tablets all became an apparatus for his
17 abuse. The police confiscated 25 electronic devices from Juan
18 when he was arrested. I will never know the full extent of his
19 harassment, the content he disseminated, and whatever else he
20 may have done in my name. I do know that as a result of him
21 pretending to be me and stalking others, he has ended
22 marriages, targeted families, damaged relationships, threatened
23 the police, and engaged in domestic terrorism against Jewish
24 communities nationwide. He struck fear into the heart of the
25 Jewish community in his vendetta against me. These hoax

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1 threats were not victimless pranks -- they altered the course
2 of hundreds of people's lives, and we still don't know if Juan
3 wouldn't have carried out his threats.

4 The abuse and victimization that I was subjected to is
5 not unusual. Intimate partner violence needs more legal
6 attention, given that 93 percent of female homicides are
7 committed by a man the victim knows. We know that in the past
8 year, each man who has committed domestic terrorism has a
9 history of domestic violence. These charges of cyberstalking
10 and hoax threats Juan pled guilty to are inextricably linked.
11 If the police had recognized the stalking and abuse as domestic
12 violence when I had reported it, many times, hundreds of
13 people's lives would be different.

14 Today I speak to you as Francesca Rossi, not
15 "Victim-1." There is no way here I can articulate the pain I
16 felt daily as Juan threatened my entire existence. I am here
17 because I have the resources and strong support, but the
18 long-range effects of this trauma are undeniable. Part of me
19 thinks that Juan is probably taking pleasure in hearing the
20 pain he caused me right now. He always had a voyeuristic
21 enjoyment in my suffering. Why else would he have anonymously
22 terrorized me while we slept in the same bed? I am here
23 because I need everyone to know the destruction that Juan is
24 capable of, and that digital technology should be recognized as
25 a powerful weapon to inflict violence. Countless people are

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1 subjected to the same type and degree of stalking and abuse
2 that Juan inflicted on me, and worse.

3 This is not an Internet crime. Technology may have
4 facilitated it, but all of this occurred in real life. The
5 police diminished my abuse because my life-threatening attacks
6 came from phones and computers. This is what domestic violence
7 looks like now.

8 My abuse was not legitimized until an entire
9 community, and the country was terrorized. Juan used modern
10 technology to exploit antiquated laws. However, we can prevent
11 this from happening to other women. Let my story shape the way
12 we recognize the modern behaviors of attack and the weapons
13 that are used. Let us believe women when they tell us of their
14 abuse, because the men that inflict it only get worse. I urge
15 you to not let there be a next time, don't let Juan do this to
16 another woman, another community, or the country.

17 Juan's pathology and misogyny will still exist when he
18 comes out. Each time we see an act of domestic terrorism, we
19 root it back to violence against women. Every time. And I
20 don't trust he won't do this again. I know there are other
21 Juans out there doing this to other women right now. We have
22 the power to stop them, starting right now, by holding Juan
23 Thompson fully accountable for his crimes.

24 Thank you so much for letting me speak.

25 THE COURT: Thank you, Ms. Rossi.

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1 This is the Court's statement of reasons for what I
2 will describe as my proposed sentence in this case.

3 In sentencing the defendant, I have considered all of
4 the materials referenced at the outset. I have considered all
5 of the arguments that the defendant raised in his written
6 submissions and, of course, orally today. I have considered
7 the exceptionally thoughtful statements that have been made in
8 this courtroom today by defense counsel and the prosecution,
9 and perhaps one of the most eloquent presentations I have heard
10 in this courtroom from Ms. Rossi.

11 I have considered each of the factors under Section
12 3553(a). I need not recount all that I have considered, but I
13 have considered each of the factors. I will comment on some of
14 it.

15 There are two crimes to which Juan Thompson has pled
16 guilty. One is a charge of cyberstalking, which arises from
17 circulating false and threatening information about Ms. Rossi
18 over the Internet, causing substantial emotional distress, and
19 this was from July 2016 to March 2017. But then there is Count
20 Two, a separate charge. And that is, from January 2017 through
21 March 2017, Mr. Thompson conveyed at least 12 threats in either
22 his own name or in the victim's name, Ms. Rossi's name, to bomb
23 or commit acts of violence against Jewish community centers,
24 schools or organizations that provide services to and on behalf
25 of the Jewish community. Each of these crimes in their own

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1 right is extremely serious.

2 Because of the presentations that have been made
3 today, I had planned to go through the facts set forth in the
4 presentence report. I do not believe I could do them justice
5 to any extent greater than what was heard from Ms. Rossi today.
6 Suffice it to say that some of the comments that were made and
7 some of the threats in an e-mail to a Jewish school, in
8 Farmington Hills, Michigan, the claim in the message was that
9 he was eager for a Jewish Newtown, a reference obviously to the
10 horrific shooting in Newtown, Connecticut in December 2012, in
11 which 20 victims were murdered.

12 Some of his threats to Jewish organizations were made
13 and required deviation of resources.

14 So on February 21, he sent an e-mail to the Council on
15 America-Islamic Relations, claiming that Ms. Rossi had placed a
16 bomb inside a Jewish center in Dallas, Texas. He also sent an
17 e-mail to the Anti-Defamation League, which claimed that Ms.
18 Rossi had made bomb threats against Jewish community center
19 sites, and that she was planning on making more bomb threats.
20 The following day, the Anti-Defamation League received an
21 anonymous call, which claimed that explosive materials had been
22 planted in their office and were to be detonated within the
23 next hour. Emergency services were immediately contacted after
24 the telephone call.

25 This is domestic terrorism. It's domestic terrorism

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1 in the literal sense, in that Mr. Thompson's actions were
2 designed to create substantial fear and distress in Ms. Rossi;
3 and, also separately, because he was motivated by the desire to
4 injure Ms. Rossi, they created terror and fear in the minds of
5 persons working at these various Jewish community centers.

6 The thing to be remembered is, as a judge presiding in
7 sentencings, I have people who have engaged in a crime which
8 was the exercise of bad judgment at a particular point in their
9 lives. That's not what we are dealing with here. There was no
10 error in judgment. This was a sustained campaign against Ms.
11 Rossi, which terrorized her and caused terror on the part of
12 the people working for the institutions. Mr. Thompson is
13 intelligent, well-educated, and he knew and appreciated the
14 nature and consequences of his acts and why they were wrong.

15 Now, I have considered all of the letters that have
16 been submitted, all of the submissions that have been made;
17 particularly, there is one from Mr. Thompson's younger sister
18 and several from folks who knew him at Vassar.

19 I have also considered Dr. Fernandez's report. He
20 says that, based on the information provided in the evaluation,
21 Mr. Thompson does not meet criteria for a severe mental
22 illness. But he goes on to say, "It's important to note that
23 he has endorsed" -- he, Mr. Thompson -- "has endorsed
24 experiencing symptoms consistent with depression and anxiety."
25 And, of course, Dr. Fernandez notes his severe alcohol abuse.

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1 And he wonders if there is a possibility that he has a
2 personality disorder, but doesn't have enough information to
3 render a diagnosis.

4 I note that Dr. Fernandez says what Mr. Gombiner says,
5 and I think Mr. Thompson says as well, that he has a desire to
6 change and an intent to change, and I accept that at face
7 value.

8 Mr. Thompson did not grow up in easy circumstances.
9 He reports that his mother was a crack cocaine abuser, that his
10 father died after what appeared to be a car chase with police,
11 and that he was not really a positive force in Mr. Thompson's
12 life. But Mr. Thompson's intelligence gave him the ability to
13 obtain a degree in political science, bachelor's degree, from
14 Vassar University in 2013. It really was his intelligence and
15 creativity that made him such a horror to the people whose
16 lives he terrorized. He used the gifts he had, he used the
17 education he had, as weaponry against other people. He used
18 his knowledge of social media and computers and a creative
19 imagination to come up with some of the things that he came up
20 with, including accusing Ms. Rossi of watching child
21 pornography and various sexually transmitted diseases and the
22 like. This required a lot of thought over a long period of
23 time. This was no mistake.

24 Now, I have considered the need for just punishment.
25 This case cries out for Mr. Thompson to be punished; that is

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1 the just thing to have happen here. There is the need to
2 specifically deter him to protect the public from further
3 crimes of this defendant. For the moment there is, in my view,
4 the risk that he would reoffend over the short-term. I hope
5 that with a period of incarceration that may diminish. I don't
6 know. I don't have a crystal ball. But I am certainly
7 positive that there is a need here, a strong need, to deter
8 others from engaging in conduct of this nature.

9 I have considered the sentencing guidelines, policy
10 statements and official commentary of the United States
11 Sentencing Commission. I realize that I am not obligated to
12 sentence within the guidelines and that I have variance
13 discretion.

14 With regard to that variance discretion, the United
15 States Sentencing Commission was kind enough to give me some
16 statistics, I think it was about 18 months ago, about my own
17 sentencing practices, and it seemed that in noncooperation
18 situations, at the request of the defense, sometimes not
19 objected to by the government, I gave below guideline sentences
20 in about 28 percent of the cases that were before me. I rarely
21 give sentences above the advisory guidelines, and the reason
22 this is true is because the guidelines help me ensure that
23 there are not unwarranted disparities among persons who are
24 convicted of crimes of this type.

25 I am not a judge who takes the guidelines lightly. I

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1 think they reflect a lot of wisdom. But here, the level of
2 intent, the level of intensity, the maliciousness behind it,
3 the fact that this man was well-educated and he took his
4 intellectual abilities and his education and used them to not
5 just torment Ms. Rossi, but to spread this terror to 12
6 institutions, warrants a sentence of 60 months' imprisonment,
7 three years' supervised release, waiver of the fine, based on
8 limited earning ability and limited assets, restitution in an
9 amount to be determined within the next 90 days, and a special
10 assessment of \$200.

11 It is my sincere view that the foregoing is sufficient
12 but not greater than necessary to achieve the purposes of
13 Section 3553(a).

14 Does the defendant or his counsel have any objection
15 to the Court's proposed sentence or the statement of reasons
16 for that sentence?

17 I will hear you now, Mr. Gombiner.

18 MR. GOMBINER: Other than already stated, we don't
19 have any legal objection.

20 THE COURT: Thank you.

21 Any objection on the part of the government?

22 MR. WARREN: No, your Honor.

23 THE COURT: Mr. Thompson, please stand and I will
24 pronounce sentence.

25 Juan Thompson, it is the judgment of this Court that

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1 you are hereby remanded to the custody of the United States
2 Bureau of Prisons to be imprisoned for 60 months, and that's to
3 run concurrently on Counts One and Two. Following release from
4 imprisonment, you shall be placed on supervised release with
5 the following terms and conditions:

6 You shall not commit another federal, state or local
7 crime, nor unlawfully possess a controlled substance.

8 You must refrain from unlawful use of a controlled
9 substance.

10 You must submit to one drug test within 15 days of
11 release from imprisonment and at least two periodic drug tests
12 thereafter as determined by the court.

13 You must cooperate in the collection of DNA as
14 directed by probation.

15 You must comply with the standard conditions of
16 supervision 1 through 13.

17 You will participate in an outpatient treatment
18 program approved by probation, which program may include
19 testing to determine whether you have reverted to using drugs
20 or alcohol. You must contribute to the costs of services
21 rendered based on your ability to pay and the availability of
22 third-party payments. The Court authorizes the release of
23 available drug treatment evaluations and reports, including the
24 presentence investigation report, to the substance abuse
25 treatment provider.

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1 You must participate in the computer Internet
2 monitoring program administered by the probation office. You
3 must provide the probation office advance notice of any
4 computers, automated services or connected devices that will be
5 used during the term of supervision and that can access the
6 Internet. Probation is authorized to install any application,
7 as necessary, to survey all activity on computers or connected
8 devices owned or operated by you. You may be required to pay
9 the cost of monitoring services at the monthly rate provided by
10 probation. The rate and payment schedule are subject to
11 periodic adjustments. Probation shall be notified by
12 electronic transmission of impermissible suspicious activity or
13 communications occurring on such computer or connected device
14 consistent with the computer monitoring policy in effect.

15 As triggered by impermissible or suspicious activity,
16 you must consent to and cooperate with unannounced examinations
17 of any computer equipment owned or used by you. This
18 examination shall include, but is not limited to, retrieval and
19 copying of all data from the computer's connected devices,
20 storage media, and any internal or external peripherals, and
21 may involve removal of such equipment for the purpose of
22 conducting a more thorough inspection.

23 You must participate in an outpatient mental health
24 treatment program approved by probation. You must continue to
25 take any prescribed medications unless otherwise instructed by

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1 the health care provider. You must contribute to the costs of
2 services rendered, based on your ability to pay and ability of
3 third-party payments. The Court authorizes the release of
4 available psychological and psychiatric evaluations and
5 reports, including the PSR, to the health care provider.

6 You must submit your person, residence, place of
7 business, vehicle, and any property, computers, electronic
8 devices, electronic communication devices, and/or other media
9 under your control to a search on the basis that the probation
10 officer has reasonable suspicion that contraband or evidence of
11 a violation of the conditions of your release may be found.
12 This search must be conducted at a reasonable time and in a
13 reasonable manner. Failure to submit may be grounds for
14 revocation. You shall inform any other residents that the
15 premises may be subject to search pursuant to the condition.

16 You must not have contact with the victims in this
17 case, including, specifically, Ms. Rossi or any member of her
18 family or coworkers. This includes any physical, visual,
19 written, or telephonic contact with such persons.
20 Additionally, you must not directly cause or encourage anyone
21 else to have such contact with the foregoing victims. This
22 applies to all victims in this case, including the various
23 Jewish community centers and other organizations who are
24 victims, the employers who are victims, friends and associates
25 of Ms. Rossi who are victims, Ms. Rossi and her family and her

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1 employers who are victims.

2 It is further ordered that you shall pay to the United
3 States a special assessment of \$200, which shall be due
4 immediately.

5 There will be restitution in a separate order within
6 90 days, and the terms of payment will be set forth in that
7 proposed order.

8 I am going to require the government to submit that to
9 me by January 30.

10 MR. WARREN: Understood, your Honor.

11 THE COURT: OK. As I said, based on limited assets,
12 limited earning ability, the fine is waived.

13 Mr. Thompson, you have the right to appeal the
14 sentence I have imposed on you. If you cannot afford the cost
15 of an appeal, you may apply for leave to appeal as a poor
16 person. The time limits for filing a notice of appeal are
17 brief and they are strictly enforced. If you request, the
18 clerk of court will prepare and file a notice of appeal on your
19 behalf immediately.

20 Do you understand all that?

21 THE DEFENDANT: Yes. I make that request of the clerk
22 of the court.

23 THE COURT: We will cause a notice of appeal to be
24 filed on your behalf.

25 Mr. Gombiner, can you undertake the filing of the

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1 notice of appeal?

2 MR. GOMBINER: Judge, yes, we will do that.

3 THE COURT: So Mr. Gombiner is going to file the
4 notice of appeal on your behalf. Is that all right, Mr.
5 Thompson?

6 THE DEFENDANT: I have no choice. So, yes, it's all
7 right.

8 THE COURT: I have a request from a member of the
9 press. "I am writing to request access to any sentencing
10 memoranda or other materials submitted, either by the
11 prosecution or defense, including letters relating to Mr.
12 Thompson's scheduled sentencing on December 20."

13 Any objection from the government?

14 MR. WARREN: Your Honor, we would just ask to have the
15 opportunity to make redactions.

16 THE COURT: On what? How about the text of your
17 letter? Let's start there. Is there anything in the text of
18 the letter as distinguished from the exhibits?

19 MR. WARREN: Yes, your Honor.

20 THE COURT: Where? Show me.

21 MR. GOMBINER: Can we approach on this?

22 THE COURT: No. Because I am going to ask you, Mr.
23 Gombiner.

24 So go ahead. Tell me where.

25 MR. WARREN: Yes, your Honor. On page 11, your Honor.

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1 THE COURT: Go ahead. Tell me where.

2 Oh, I see. Yes. That relates to the matter that was
3 addressed at the sidebar. This would be the third and fourth
4 sentence of the first paragraph on page 11. Is that correct?

5 MR. WARREN: That's correct, your Honor.

6 THE COURT: You have permission to redact that. I am
7 going to direct you to file the text of the letter by 3 p.m.
8 today with those redactions.

9 Is there anything in the exhibits that you want to
10 redact?

11 MR. WARREN: Your Honor, on the police report, just
12 the opportunity to redact the officer's personal information.
13 That comes to mind right away.

14 THE COURT: Granted.

15 Mr. Gombiner, anything that you wish to redact in your
16 sentencing submission?

17 MR. GOMBINER: Yes, Judge. At page 7, going on to
18 page 8.

19 THE COURT: Just one second.

20 Yes, you can redact that paragraph at the bottom of
21 page 7 on to page 8. Otherwise this should be filed on ECF by
22 3 p.m. today.

23 MR. GOMBINER: Judge, also, can we redact the
24 psychological evaluation?

25 THE COURT: Yes, you can redact that as well.

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1 Anything else from the government?

2 MR. WARREN: No. Thank you, your Honor.

3 THE COURT: Anything else from the defendant?

4 MR. GOMBINER: No, Judge. Thank you.

5 THE COURT: Thank you all very much.

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